

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

ALEX ADAMS

Plaintiff,

V.

VC999 PACKAGING SYSTEMS,

Defendant.

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CASE NO. 1:21-cv-507

## **NOTICE OF REMOVAL**

Under 28 U.S.C. §§ 1332, 1441, and 1446, Defendant, VC999 Packaging Systems, Inc., by counsel, file this *Notice of Removal* to remove the above-captioned lawsuit to this Court for the reasons stated below. Defendant, appearing only to effect removal, and preserving all defenses available, states:

**VENUE**

1. On February 3, 2021, Plaintiff filed his Complaint against Defendant in the Superior Court of Marion County, Indiana, under cause number 49D07-2102-CT-003773 (the “State Court Action”). The Complaint is attached as Exhibit A

2. Removal of the State Court Action to the Southern District of Indiana, Indianapolis Division, is proper under 28 U.S.C. § 1441(a), because the Southern District of Indiana, Indianapolis Division, embraces Marion County, where the State Court Action is pending.

## REMOVAL IS TIMELY

3. Less than 30 days ago, Defendant was served by certified mail with a Summons and Plaintiff's Complaint in the State Court Action.

4. There have been no proceedings in the State Court Action.

5. For these reasons, Defendant's Notice of Removal is timely under 28 U.S.C. § 1446(b).

### **DIVERSITY JURISDICTION EXISTS**

6. Under 28 U.S.C. § 1332(a), this Court has original jurisdiction over the State Court Action because Plaintiff and Defendant are citizens of different states and the amount in controversy is over \$75,000, exclusive of interest and costs.

7. Plaintiff, Alex Adams, is a natural person and a citizen of Indiana.

8. Defendant VC999 Packaging Systems, Inc., is a Missouri corporation with its principal place of business in North Kansas City, Missouri, and, therefore, is a citizen of Missouri.

9. The State Court Action is a personal injury action arising out of an injury sustained while using the rs420 Rollstock Thermoformer ("rs420"). Plaintiff alleges that Defendant breached its duty to Plaintiff in failing to properly design, develop, manufacture, market, promote, label, and sell the machinery, and failed to adequately warn of material facts regarding the use and/or maintenance of the rs420. Plaintiff also alleges that the rs420 was defectively designed. Although Defendant does not have full information concerning Plaintiff's alleged injuries and damages, Defendant believes that the amount in controversy, exclusive of interests and costs, is over \$75,000, inasmuch as Plaintiff is alleging to have had his hand trapped in the machine's heating element for a significant period of time.

10. The State Court Action does not fall within any class of actions under which applicable rules, laws, or statutes limit or prohibit removal to this Court.

11. For these reasons, the State Court Action is properly removed to this Court, in accordance with 28 U.S.C. §§ 1367, 1441, and 1446, because: (1) the State Court Action is a civil action between citizens of different states; (2) the amount in controversy in the State Court Action is over \$75,000, exclusive of interest and costs; and, (3) the State Court Action is a civil action pending within the jurisdiction of the Indianapolis Division of the United States District Court for the Southern District of Indiana.

### **STATUTORY REQUIREMENTS**

12. Under 28 U.S.C. § 1446(a), a copy of the entire state court file is attached as Exhibit B and includes the State Court Record as of the date of this Notice of Removal, including the following: Complaint, Appearance, Summonses, and Proof of Service.

13. Under 28 U.S.C. § 1446(d), Defendant will file a copy of a Notice of Removal with the Superior Court of Marion County, Indiana, and Defendant will serve Plaintiff with both this Notice of Removal and the Notice of Filing Notice of Removal.

WHEREFORE, Defendant, VC999 Packaging Systems, Inc., gives notice of the removal of the above-captioned lawsuit, pending in the Superior Court of Marion County, Indiana, to the United States District Court for the Southern District of Indiana, Indianapolis Division.

LEWIS WAGNER, LLP

/s/ Dina M. Cox  
DINA M. COX, #18590-49  
WHITNEY L. ROGERS, #34758-49  
*Counsel for Defendant*

**CERTIFICATE OF SERVICE**

I hereby certify that on March 4, 2021, a copy of the foregoing was filed electronically. Service of this filing will be made on all ECF-registered counsel by operation of the court's electronic filing system. Parties may access this filing through the court's system:

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